## NC v2

Morality must be grounded in a priori reason:

1. Action Theory: mere movement is infinitely subdivisible and there are a variety of other movements that occur at the same time; only practical reasoning makes morality possible by unifying a series of movements into a coherent whole.
2. Regress: A theory is only binding when you can answer the question “why should I do this?” and not continue to ask “why”. Only practical reason provides a deductive foundation for ethics since the question “why should I be rational” already concedes the authoritative power of agency since your agency is at work.

Agency involves ascribing the same capacity to other rational beings; intersubjectivity is a precondition to actualizing myself. There can be no objection to deny another’s freedom since they possess the same right and that would deny my worth. We must have an omnilateral will since it’s a contradiction by willing a world where the will is denied or clashing without resolution. All claims are provisional until brought under public right. **KANT:[[1]](#footnote-1)** When I declare (by word or deed), “I will that an external thing shall be mine,” I thereby declare it obligatory for everyone else to refrain from using the object of my will.  This is an obligation that no one would have apart from this juridical act of mine.  Included in this claim, however, is an acknowledgment of being and that **I’m reciprocally bound to everyone else** to exercise a similar and equal restraint with respect to what is theirs. T**he obligation** involved here **comes from a universal rule of the external juridical relationship** that is, the civil society.  Consequently, I am not bound to leave what is another’s property untouched if everyone else does not in turn guarantee to me [they] with regard to what is mine that he will act in accordance with exactly the same principle. This guarantee does not require a special juridical act, but is already contained in the concept of being externally juridically bound to a duty Verpflichtung on account of the universality and hence also the reciprocity of an obligation coming from a universal rule. Now, with respect to an external and contingent possession, **a unilateral Will cannot serve as a coercive law** for everyone, **since that would be a violation of freedom in accordance with universal laws.**Therefore, **only a Will binding everyone else**—that is, collective universal (common), and powerful Will—**is the kind of Will that can provide the guarantee required.**The condition of being subject to general external (that is, public legislation that is backed by power is the civil society. Accordingly, a thing can be externally yours or mind only in a civil society.

Thus the standard is consistency with the omnilateral will

Prefer additionally:

1. The process of argumentation presupposes the universality of reason—that the other person has some shared ability to understand your claims and reason, so its constitutive to debate.
2. morality must be grounded in a priori facts since theoretical ones are determined – you cannot command someone to hold a desire or fall in love, but only to act from moral duty. Since the structure of reason exists independent of empirical circumstances, maxims must be universal since a reason for a rational agent is a reason for every rational agent

Negate:

First, Banning hate speech puts the state behind the marginalized to correct past violations of freedom – the aff just naturalizes those violations. **Varden 10**

Kant’s distinction between public and private right can also be used to make sense of controversial issues of hate speech, speech amounting to harassment, and blackmail. First, an explanation why all these kinds of speech will not only be regu- lated in relation to public spaces, but also private (non-governmental) workplaces. The reason why public spaces of interaction and private workplaces are equally important targets of public law issues from the fact that in capitalist economies, at least, the state has permitted its citizens to become dependent upon private employ- ment to secure access to means and hence to exercise external freedom. **Just as the state must ensure that all public spaces are spheres within which its citizens can interact as free**, equal and independent bearers of rights, the state must also ensure that an economy on which its citizens are dependent for access to material means functions in the same way. That is to say, insofar as the state permits the capitalist system to become part of the public solution to enabling rightful private property for all, it must also govern that economic system by public law. The state cannot permit such systemic dependence without also ensuring that the systems are not under private control. To permit this would be to permit some private citizens to obtain coercive control over the freedom of other citizens, which is precisely not to ensure that universal law regulates all citizens’ interactions. Such private dependency relations are therefore necessarily in conflict with the state’s function, namely to reconcile its monopoly on coercion with each citizen’s innate right to freedom. The right to freedom, as we saw, is the right to *independence from* rather than dependence upon any private person’s arbitrary choices, which is realized only by subjecting interacting persons’ freedom reciprocally to universal laws of freedom as enabled by the public authority. By issuing public law to govern any systems, including private ones, upon which the citizens’ exercise of their rights is depen- dent, the state secures rightful conditions for all. Even if we accept that **issues of systemic dependency explain why the state will regulate public spaces as** well as some apparently private interactions, such as in the workplace, it is not immediately clear why the regulation of hate speech and speech amounting to harassment is necessary. Why are these kinds of speech not protected by free speech legislation – and why do they fall under public rather than private law? The answer lies in the way in which these kinds of speech track severe and pervasive historical oppression.Hate speech and harassment are exemplified by personal insults on the basis of factors like race, ethnicity, gender, sexual orienta- tion, disability and socioeconomic class. Moreover, it seems that achieving the insult is possible only because there has been a significant history of oppression of the insulted person. After all, blond jokes can’t really rise to the status of insult, but sexist comments about my gender can. Still, as we saw above, the fact that speech is offensive or annoying is not enough to make them proper objects of law, so what makes these cases different? On the Kantian view I have been developing, **hate speech** and speech amounting to harassment are not outlawed because they track private wrongdoing as such, but rather because they **track the state’s** historical and current **inability to provide some group(s) of citizens with rightful conditions of interaction.** This type of public law tries to remedy the fact that some citizens have been and still are ‘more equal than others’. Hence, **if the state finds that it is still unable successfully to provide conditions under which protection and empowerment of its historically oppressed**, and thus vulnerable, are secured, **then it is within its rightful powers to legally regu- late speech and harassment to improve its ability to do so.** By putting its weight behind historically oppressed and vulnerable citizens, the state seeks to overcome the problems caused by its lack of recognition in the past and its current failure to provide conditions in which its citizens interact with respect for one as free and equal. Therefore, **whether or not any instance of speech actually achieves insult is inconsequential**, for that is not the justification for the state’s right to outlaw it. Rather,laws regulating speech and harassment track the state’s systemic inability to provide rightful interaction for all of its citizens. Note that this argument does not, nor must it, determine which particular usages of hate speech and speech amounting to harassment should be banned. It only explains why **certain kinds** and circumstances of speech and harassment can and **should be outlawed** and why public law, rather than private law, is the proper means for doing so. Determining which types and how it should be banned is matter for public debate and reflection followed by public regulation on behalf of all citizens.

Second, under the framework, the state is non-optional because in the state of nature, one person just imposes their will on the other when they conflict, but that coercion is unjustifiable. Their framework explains that the state as an omnilateral institution is the solution to that problem. Since the state of nature violates right, seditious speech does too.Helga **Varden 2**, University of Illinois at Urbana-Champaign, 5-22-2010, "A Kantian Conception of Free Speech," Freedom of Expression In A Diverse World, <http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1_4> brackets in original.

To understand Kant’s condemnation of seditious speech, remember that Kant, as mentioned above, takes himself to have shown that **justice is impossible in the state of nature** or that there is no natural executive right. **Since Kant considers himself to have** successfully refuted any defense of the **natural executive right, he takes himself also to have shown that no one has the right to stay in the state of nature.** This, in turn, explains why Kant can and does consider seditious speech a public crime. **The intention behind seditious speech is** not merely **to** criticize the government or to discuss theories of government critically, say. In order to qualify as seditious, the speaker’s intention must be to **encourage** and support **efforts to subvert the government or to instigate its** violent **overthrow**, namely revolut**ion.** To have such a right would be to have the right to destroy the state. **Since the state is the means through which right is possible**, **such a right would involve** having **the right to annihilate right** **(6: 320). That is, since right is impossible in the state of nature,** to have a right to subversion would be to have the right to replace right with might. **Since the state is the only means through which right can replace might, the state outlaws it. And** **since it is a crime that “endanger[s] the commonwealth”** rather than citizens qua private citizens, **it is a public crime** (6: 331).

This outweighs because there are infinite rights violations without the state

Underview:

1. Hindering a Hindrance is legitimate because the hinderer has violated the victim’s antecedent right to be free and thus you are only interfering with purposes that are wrongfully theirs.
2. Consequences are not relevant under my framework because its not about the contingent formation of an institution generally but the way reasons justify it.

## NC v1

The metaethic is practical reason –

A. Action Theory: mere movement is infinitely subdivisible and there are a variety of other movements that occur at the same time; only practical reasoning makes morality possible by unifying a series of movements into a coherent whole. The aff’s claims that certain acts are wrong and deserve punishment prove that practical reason outweighs – otherwise there would be no basis for moral responsibility.

B. Regress: A theory is only binding when you can answer the question “why should I do this?” and not continue to ask “why”. Only practical reason provides a deductive foundation for ethics since the question “why should I be rational” already concedes the authoritative power of agency since your agency is at work. Metaethical standards outweigh: they determine what counts as a warrant for a standard, so absent grounding in some metaethical framework, their arguments aren’t relevant normative considerations. And, universities can’t have moral obligations--just like we don’t hold a knife or a rock morally responsible for injuring someone, we can’t hold universities morally responsible—only the people who make decisions. Universities are simply tools, created by humans, and don’t possess obligations. Any valid practical judgment must be true of every practical agent and forevery agent since the only relevant feature is reason and not contingent circumstance. Rational agents cannot act on a maxim that hinders the outer freedom of others’ – that’s non-universalizable since it wills both an increase and decrease in agent’s freedom.Whoever wins will coerce the loser in a way inconsistent with their freedom. Thus the standard is protecting freedom. Prefer--freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place. Thus, denying self-ownership in the round automatically implies the truth of the aff framework. Ostrowski on Hoppe

James, , A SYMPOSIUM ON DRUG DECRIMINALIZATION: THE MORAL AND PRACTICAL CASE FOR DRUG LEGALIZATION. SPRING, 1990 18 Hofstra L. Rev. 607

"[A]rgumentation is a conflict-free way of interacting ... a mutual recognition of each person's exclusive control over his own body must be presupposed as long as there is argumentation." 112 Hoppe summarizes the complete argument as follows: **Whenever a person claims that some statement can be justified, [s]he** at least **implicitly assumes** the following norm to be justified: "**Nobody has the right to** uninvitedly aggress against the body of any other person and thus delimit or **restrict anyone's control over [her]** his own **body."** **This** rule **is implied in the concept of justification as argumentative justification. Justifying means justifying without having to rely on coercion.** In fact, if one formulates **the opposite of this rule**, i.e., "**everybody has the right to uninvitedly aggress against other people**" . . . then it is easy to see that this rule is not, and **never could be, defended in argumentation. To do so would in fact have to presuppose the validity of** precisely its opposite, i.e., **the** aforementioned **principle of non-aggression.**

Performativity precludes other ethical justifications: we may think that other arguments are true but only performative ones are confirmed in round.

Negate:

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The right to freedom, as we saw, is the right to *independence from* rather than dependence upon any private person’s arbitrary choices, which is realized only by subjecting interacting persons’ freedom reciprocally to universal laws of freedom as enabled by the public authority. By issuing public law to govern any systems, including private ones, upon which the citizens’ exercise of their rights is depen- dent, the state secures rightful conditions for all. Even if we accept that **issues of systemic dependency explain why the state will regulate public spaces as** well as some apparently private interactions, such as in the workplace, it is not immediately clear why the regulation of hate speech and speech amounting to harassment is necessary. Why are these kinds of speech not protected by free speech legislation – and why do they fall under public rather than private law? 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Outweighs:

1. Hindering a hindrance is justified. **Ripstein**

That is, unlike Bentham, he begins with the concept of a rule, but the rules in question govern the legitimate use of force in terms of reciprocal limits on freedom. **Coercion is objectionable where it is a hindrance to a person’s right to freedom, but legitimate when it takes the form of hindering[s] a hindrance** to freedom. To stop you from interfering with another person upholds the other’s freedom. **Using force to get the victim out of the kidnapper’s clutches involves coercion** against the kidnapper, because it touches or threatens to touch him in order to advance a purpose, the freeing of the victim, to which he has not agreed. **[but] The use of force is rightful because an incident of the victim’s antecedent right to be free**. The kidnapper hinders the victim’s freedom; [and] forcibly freeing the victim hinders that hindrance, and in so doing upholds the victim’s freedom. In so doing, it also makes the kidnapper do what he should have done, that is, let the victim go, but its rationale is that it upholds the victim’s right to be free, not that it enforces the kidnapper’s obligation to release the victim. The use of force in this instance is an instance of the victim’s right to independence, and so is a consistent application of a system of equal freedom.

1. Hindering a Hindrance is legitimate because the hinderer has violated the victim’s antecedent right to be free and thus you are only interfering with purposes that are wrongfully theirs.

1. Immanuel Kant [founder of analytic philosophy] “Critique of Pure Reason” 1781 [↑](#footnote-ref-1)